

In the United States Court of Appeals  
for the Ninth Circuit

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ROBERT WOODROW TROWBRIDGE, PETITIONER

v.

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

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On Petition for Review of the Decision of the  
Tax Court of the United States

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BRIEF AND APPENDIX FOR THE RESPONDENT

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FILED

APR 16 1959



## INDEX

	Page
Opinion below .....	1
Jurisdiction .....	1
Question presented .....	2
Statute and Regulations involved.....	2
Statement .....	6
Summary of argument.....	7
<b>Argument:</b>	
The Tax Court correctly held that the taxpayer was not entitled to dependency exemptions for the taxable year 1954 under Section 152(a) (9) of the 1954 Internal Revenue Code for individuals who did not commence to maintain their principal place of abode in the home of the taxpayer and become members of his household until March, 1954 .....	8
Conclusion .....	17
Appendix .....	18
 <b>CITATIONS</b>	
<b>Cases:</b>	
<i>Automobile Club v. Commissioner</i> , 353 U. S. 180..	11
<i>Bombarger v. Commissioner</i> , 31 T. C. No. 48.....	16
<i>Dewsbury v. United States</i> , 146 F. Supp. 467.....	16
<i>Manhattan Co. v. Commissioner</i> , 297 U. S. 129, affirming 76 F. 2d 892.....	11
<i>McMillan v. Commissioner</i> , 31 T. C. No. 116.....	16
<i>Trowbridge v. Commissioner</i> , 30 T. C. 879.....	1
<i>Turnipseed v. Commissioner</i> , 27 T. C. 758.....	16
 <b>Statutes:</b>	
Internal Revenue Code of 1954:	
Sec. 1 (26 U.S.C. 1952 ed., Supp. II, Sec. 1)..	16
Sec. 151 (26 U.S.C. 1952 ed., Supp. II, Sec. 151) .....	2
Sec. 152 (26 U.S.C. 1952 ed., Supp. II, Sec. 152) .....	2, 8
Sec. 7805 (26 U.S.C. 1952 ed., Supp. II, Sec. 7805) .....	4

II

Statutes—Continued	Page
Internal Revenue Code of 1939, Sec. 25 (26 U.S.C. 1952 ed., Sec. 25).....	9
Miscellaneous:	
H. Rep. No. 1337, 83d Cong., 2d Sess., p. 18-19, A41-A42 (3 U.S.C. Cong. & Adm. News (1954) 4017, 4044, 4178).....	9, 13, 16
S. Rep. No. 1622, 83 Cong., 2d Sess., p. 21, 193- 194 (3 U.S.C. Cong. & Adm. News (1954) 4621, 4651, 4828).....	9, 15, 16
Treasury Regulations on Personal Exemptions (1954), Sec. 1.152-1.....	5, 11

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No. 16306

ROBERT WOODROW TROWBRIDGE, PETITIONER

v.

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

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On Petition for Review of the Decision of the  
Tax Court of the United States

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BRIEF AND APPENDIX FOR THE RESPONDENT

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**OPINION BELOW**

The opinion of the Tax Court (Appendix, *infra*) is reported at 30 T. C. 879.

**JURISDICTION**

The petition for review involves federal income taxes for the taxable year 1954. The Commissioner of Internal Revenue mailed to the taxpayer notice of a deficiency in the total amount of \$377. Within ninety days and on October 8, 1956, the taxpayer filed a petition with the Tax Court for a determination of that deficiency under the provisions of Section 6213

of the Internal Revenue Code of 1954. The decision of the Tax Court was entered on July 9, 1958. The case is brought to this Court by a petition for review filed October 7, 1958. Jurisdiction is conferred on this Court by Section 7482 of the Internal Revenue Code of 1954. (Docket Entries, Tax Court Opinion and Decision, Appendix, *infra.*)<sup>1</sup>

### QUESTION PRESENTED

Whether the Tax Court correctly held that the taxpayer was not entitled to exemptions under Section 152(a)(9) of the 1954 Internal Revenue Code for persons who did not commence to maintain their principal place of abode in the home of the taxpayer and become members of his household until March of the taxable year under review.

### STATUTE AND REGULATIONS INVOLVED

Internal Revenue Code of 1954:

#### SEC. 151. ALLOWANCE OF DEDUCTIONS FOR PERSONAL EXEMPTION.

(a) *Allowance of Deductions.*—In the case of an individual the exemptions provided by this section shall be allowed as deductions in computing taxable income.

\* \* \* \*

(e) *Additional Exemption for Dependents.*—

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<sup>1</sup> The Commissioner has not received a copy of the record in the instant case; consequently, as a convenience to the Court, we have printed as an appendix to our brief the most pertinent matters that we deem appropriate to be considered for review.

(1) *In general.*—An exemption of \$600 for each dependent (as defined in section 152)—

(A) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than \$600, or

\* \* \* \*

(26 U.S.C. 1952 ed., Supp. II, Sec. 151.)

## SEC. 152. DEPENDENT DEFINED.

(a) *General Definition.*—For purposes of this subtitle, the term “dependent” means any of the following individuals over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under subsection (c) as received from the taxpayer) :

(1) A son or daughter of the taxpayer, or a descendant of either,

(2) A stepson or stepdaughter of the taxpayer,

(3) A brother, sister, stepbrother, or stepsister of the taxpayer,

(4) The father or mother of the taxpayer, or an ancestor of either,

(5) A stepfather or stepmother of the taxpayer,

(6) A son or daughter of a brother or sister of the taxpayer,

(7) A brother or sister of the father or mother of the taxpayer,

(8) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer,

(9) [as amended by Sec. 4(a), Technical Amendments Act of 1958, P. L. 85-866, 72 Stat. 1606] An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 153, of the taxpayer) who, for the taxable year of the taxpayer, has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, or

(10) An individual who—

(A) is a descendant of a brother or sister of the father or mother of the taxpayer,

(B) for the taxable year of the taxpayer receives institutional care required by reason of a physical or mental disability, and

(C) before receiving such institutional care, was a member of the same household as the taxpayer.

\* \* \* \*

(26 U.S.C. 1952 ed., Supp. II, Sec. 152.)

#### SEC. 7805. RULES AND REGULATIONS.

\* \* \* \*

(b) *Retroactivity of Regulations or Rulings.*—The Secretary or his delegate may prescribe the extent, if any, to which any ruling or regulation, relating to the internal revenue laws, shall be applied without retroactive effect.

\* \* \* \*

(26 U.S.C. 1952 ed., Supp. II, Sec. 7805.)

Treasury Regulations on Personal Exemptions (1954 Code) :

Sec. 1.152-1. *General definition of a dependent.*—

\* \* \* \*

(b) Section 152(a)(9) applies to any individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 153, of the taxpayer) who lives with the taxpayer and is a member of the taxpayer's household during the entire taxable year of the taxpayer. An individual is not a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law. It is not necessary under section 152(a)(9) that the dependent be related to the taxpayer. For example, foster children and children awaiting adoption may qualify as dependents. It is necessary, however, that the taxpayer both maintain and occupy the household. The taxpayer and dependent will be considered as occupying the household for such entire taxable year notwithstanding temporary absences from the household due to special circumstances. A nonpermanent failure to occupy the common abode by reason of illness, education, or vacation shall be considered temporary absence due to special circumstances. The fact that the dependent dies during the year shall not deprive the taxpayer of the deduction if the dependent lived in the household for the entire part of the year preceding his death. Likewise, the period during the taxable year preceding the birth of an individual shall not prevent such individual from qualifying as a de-

pendent under section 152(a)(9). Moreover, a child who actually becomes a member of the taxpayer's household during the taxable year shall not be prevented from being considered a member of such household for the entire taxable year, if the child is required to remain in a hospital for a period following its birth, and if such child would otherwise have been a member of the taxpayer's household during such period.

\* \* \* \* \*

### STATEMENT

The facts as found by the Tax Court may be stated as follows (Findings of Fact and Opinion of the Tax Court, Appendix, *infra*) :

The taxpayer, a resident of Laton, California, filed his 1954 individual income tax return with the District Director of Internal Revenue, San Francisco, California. In that return, the taxpayer claimed a personal exemption and further an exemption for three other individuals consisting of a woman and her two minor sons. These individuals were not related to the taxpayer by either blood or marriage. These persons came to live in the taxpayer's home about March 5, 1954, and continued to reside there during the remainder of the taxable year 1954.

The Commissioner disallowed the taxpayer's claim for the three individuals who were not related to him by either blood or marriage because their principal place of abode was not the taxpayer's home during the entire taxable year 1954. The Tax Court found the Commissioner's determination to be correct and accordingly held the taxpayer deficient in income tax for 1954 in the amount of \$377.

## SUMMARY OF ARGUMENT

The sole question in this case is whether for his calendar year 1954 the taxpayer is entitled under Section 152(a)(9) of the 1954 Internal Revenue Code to deductions for exemptions for Mrs. Leoni and her two minor sons, who were not related to the taxpayer by blood, marriage or adoption. These three non-related individuals became members of taxpayer's household on or about March 5, 1954, and resided there for the remainder of the taxable year. The Commissioner does not contest taxpayer's assertion that each of the three individuals earned less than \$600 during the year 1954, nor that over half of the support of each for that year was received from the taxpayer. Each of the exemptions was denied because none of the three individuals had his principal place of abode at the home of the taxpayer and was not a member of his household for the entire taxable year for which the exemptions are claimed.

The Tax Court was correct in upholding the Commissioner. The section of the 1954 Code, which for the first time included exemptions for non-related individuals who qualified under the new requirements, the regulation promulgated thereunder, and the Committee Reports of both the House and Senate, make it quite clear that an exemption was granted for a non-related individual only where taxpayer and such individuals live together in his household for the entire taxable year except for temporary absences due to special circumstances.

## ARGUMENT

**The Tax Court Correctly Held That the Taxpayer Was Not Entitled To Dependency Exemptions for the Taxable Year 1954 Under Section 152(a)(9) of the 1954 Internal Revenue Code for Individuals Who Did Not Commence To Maintain Their Principal Place of Abode In the Home of the Taxpayer and Become Members of His Household Until March, 1954**

We submit that the Tax Court correctly denied the exemptions claimed for the three non-related individuals on the ground that none of them was a member of taxpayer's household nor had as his principal place of abode the home of the taxpayer "for the taxable year of the taxpayer".

Taxpayer's taxable year is the calendar year 1954. The individuals, not related to him, did not become members of his household until March 5, 1954, hence none qualifies for exemption under Section 152(a) (9) of the 1954 Internal Revenue Code, *supra*, the section under which the exemptions are claimed. This section provides:

### SEC. 152. DEPENDENT DEFINED.

(a) *General Definition.*—For purposes of this subtitle, the term "dependent" means any of the following individuals over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer \* \* \*:

\* \* \* \* \*

(9) An individual \* \* \*<sup>2</sup> who, *for the*

---

<sup>2</sup> The omitted parenthetical clause, which was added by Section 4(a), Technical Amendments Act of 1958, P. L. 85-866, 72 Stat. 1606, in Section 152(a) (9) which reads "(other

*taxable year of the taxpayer*, has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, \* \* \* [Emphasis supplied.]

\*       \*       \*       \*

The case turns upon whether the phrase "for the taxable year of the taxpayer" as used in the above section means his entire taxable year.<sup>3</sup> The statute, its history, the Regulations promulgated thereunder, and the committee reports all show that the quoted phrase means for the entire taxable year.

In drafting the 1954 Code, Congress in all material respects reenacted the provisions of Section 25(b) of the 1939 Code relating to exemptions granted, and at the same time added two categories for which theretofore no exemption had been granted.<sup>4</sup> Section 151 of

than an individual who at any time during the taxable year was the spouse, determined without regard to section 153, of the taxpayer)" is in no way applicable to the case at bar.

<sup>3</sup> Apparently the taxpayer feels that by showing that for a portion of 1954 the principal place of abode of the individuals in question was his home he has thereby satisfied the requirements of the Code Section. (Br. 4.) This argument completely fails to consider the question of whether dependent individuals who maintain their principal place of abode in the home of the taxpayer for a part of the taxpayer's taxable year must maintain this relationship for the entire taxable year of the taxpayer. The Tax Court, in holding that the relationship must exist for the entire taxable year, decided that "for the taxable year of the taxpayer" means his entire taxable year. (Opinion, Appendix, *infra*.)

<sup>4</sup> The pertinent committee reports read as follows (H. Rep. No. 1337, 83d Cong., 2d Sess., p. A41 (3 U.S.C. Cong. & Adm. News (1954) 4017, 4178); S. Rep. No. 1622, 83 Cong., 2d

the 1954 Code, *supra*, allows a deduction for an exemption for each dependent as defined in Section 152. The general definition in Section 152 defines the term "dependent" as "any of the following individuals" over half of whose support "for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer". This is followed by eight different types of individuals, all related to the taxpayer by blood, marriage or legal adoption. Up to this point the 1954 Code requirements do not differ from those of the 1939 Code, Section 25(b). These two new categories are found in subsection (a)(9) of

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Sess., p. 193 (3 U.S.C. Cong. & Adm. News (1954) 4621, 4828)):

*Section 152. Dependent defined*

This section corresponds to section 25 (b) (3) of the 1939 Code but has several new provisions.

Subsection (a) corresponds to the first sentence in section 25 (b) (3) of the 1939 Code. It defines a dependent as in section 25 (b) (3) of the Code of 1939 as an individual, described in paragraphs 1 to 8 (subparagraphs A through H of section 25 (b) (3) of the 1939 Code) over one-half of whose support (for the calendar year in which the taxable year of the taxpayer begins) is received from the taxpayer. No substantive change is made as to such paragraphs. To the list of eligible individuals is added a ninth classification—any individual who is a member of the taxpayer's household and whose principal place of abode for the taxable year of the taxpayer is the home of the taxpayer, and a tenth classification—an individual who is a cousin of the taxpayer and who, for the taxable year of the taxpayer requires institutional care because of physical or mental disability and before receiving such care was a member of the same household as the taxpayer.

Section 152, involved here, and subsection (a)(10), which is not involved. In each of these two subsections there are added requirements not present in the general definition of "dependent" which clearly show that Congress was not granting exemptions under these subsections on the same basis as the first eight subsections of Section 152(a).

In subsection (9), quoted above, the non-related individual must have as his principal place of abode the home of the taxpayer and must be a member of that household "for the taxable year of the taxpayer". Subsection (10) relates to certain individuals related to the taxpayer who for the taxable year received institutional care, but requires that before receiving such care the individual must have been a member of the same household as the taxpayer.

The regulation<sup>5</sup> specifically providing that an individual to qualify under Section 152(a)(9) must be an individual who lives with the taxpayer and is a member of taxpayer's household during the entire taxable year states (Section 1.152-1(b), *supra*):

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<sup>5</sup> The taxpayer claims that the instant section of the Regulations was not in effect in the taxable year 1954 (Br. 6-7.) There is no basis for this contention. The Secretary of the Treasury or his delegate has the authority to prescribe the extent to which any regulation relating to the internal revenue laws may be applied without retroactive effect. Section 7805(b) of the 1954 Code, *supra*. Obviously, if no such action is taken, the regulation will then be effective as of the same date as the Code section to which it relates. *Manhattan Co. v. Commissioner*, 297 U. S. 129, affirming 76 F. 2d 892 (C. A. 2d); *Automobile Club v. Commissioner*, 353 U. S. 180. The 1954 Code was not approved until August 16, 1954. Necessarily the Regulations thereunder followed later.

Section 152(a)(9) applies to any individual \* \* \* who lives with the taxpayer and is a member of the taxpayer's household *during the entire taxable year of the taxpayer*. An individual is not a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law. It is not necessary under section 152(a)(9) that the dependent be related to the taxpayer. For example, foster children and children awaiting adoption may qualify as dependents. It is necessary, however, that the taxpayer both maintain and occupy the household. The taxpayer and dependent will be considered as occupying the household *for such entire taxable year* notwithstanding temporary absences from the household due to special circumstances. A nonpermanent failure to occupy the common abode by reason of illness, education, or vacation shall be considered temporary absence due to special circumstances. The fact that the dependent dies during the year shall not deprive the taxpayer of the deduction if the dependent lived in the household *for the entire part of the year preceding his death*. Likewise, the period during the taxable year preceding the birth of an individual shall not prevent such individual from qualifying as a dependent under section 152(a)(9). Moreover, a child who actually becomes a member of the taxpayer's household during the taxable year shall not be prevented from being considered a member of such household *for the entire taxable year*, if the child is required to remain in a hospital for a period following its birth, and if such child would otherwise have been a member of the taxpayer's

household during such period. [Emphasis supplied.]

As can easily be seen, when the regulation directs itself to the taxable year of the taxpayer, the phrase "entire taxable year" or a similar phrase expressing entirety has been consistently used. Furthermore, a large portion of the regulation is concerned with specifying certain situations that will not disqualify individuals from being construed to have maintained their abode at the taxpayer's home for the entire taxable year of the taxpayer. Certainly the instant situation in which a woman and her two minor sons became members of the taxpayer's household subsequent to March 4 of the taxable year at bar is by no means one of the instances in which the regulation construes a claimed dependent to be constructively present at the taxpayer's residence for the entire taxable year.

The Tax Court points out that to sustain the taxpayer the words "for the taxable year" would have to be construed to mean "for a part of", or "during some part of", or "at any time during"; also that in its ordinary meaning the word "for" as defined in Webster's Dictionary means "during; throughout; in or through the space of time of; to the extent of."

Most important, the instant regulation is perfectly consistent with the intent of Congress as expressed in the House and Senate reports pertaining to the effect of Section 152(a)(9) of the 1954 Code. The House report states the following in defining the Code section in question (H. Rep. No. 1337, 83d Cong., 2d Sess., p. A41-A42 (3 U.S.C. Cong. & Adm. News (1954) 4017, 4178)):

*Section 152. Dependent defined*

\* \* \* \*

Paragraph (9) is intended to apply only when the taxpayer and such other members of his household live together in such household *during the entire taxable year* (except for temporary absences due to special circumstances). The fact that such individual may be at college during the college term does not prevent the home of the taxpayer from also constituting the principal place of abode of such individual. However, such home will not be considered as the principal place of abode where the child establishes a separate habitation and only returns for periodic visits. Similarly, such home will not be considered as constituting the principal place of abode of a dependent of the taxpayer who is supported by the taxpayer for a part of the year in lodgings other than those occupied by the taxpayer even though such person may at various periods live in the household, unless the residence of the dependent in other lodgings is due to necessity such as illness. It is also intended that the household constitute the actual place of abode of the taxpayer and it is not sufficient that the taxpayer maintain the household without being an occupant thereof. For example, under paragraph (9) the taxpayer will be entitled to claim a foster child (who is not legally adopted) as a dependent (assuming the support and earnings tests are met) provided the foster child is a member of the taxpayer's household and lives in the taxpayer's home *for the entire taxable year*, except for vacations or time away at school. [Emphasis supplied.]

Moreover, the Senate report uses the identical language as the House report. S. Rep. No. 1622, 83d Cong., 2d Sess., pp. 193-194 (3 U.S.C. Cong. & Adm. News (1954) 4621, 4828).

Certainly there can be no question but that Congress meant that Section 152(a)(9) of the 1954 Code would be available to a taxpayer claiming a dependency exemption under this Code provision only if the dependent individual maintained his abode in the taxpayer's home and was a member of the taxpayer's household for the entire taxable year of the taxpayer. Consequently it seems clear that had Congress intended to grant exemptions for non-related taxpayers upon the same basis that they were granted for relatives,<sup>6</sup> it would have been unnecessary for it to have included the phrase the interpretation of which is here involved, or to have changed the heading of Section 152.

To the best of our knowledge the court below rendered the initial judicial decision deciding the issue now on review. Although cases have decided other issues concerning Section 152(a)(9), some of which discussed the intent of Congress in adding this Code provision as it related to the question then at bar, these decisions offer no assistance to the question be-

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<sup>6</sup> In this connection it is to be noted that special rates of tax are given to heads of households. However, the statute specifically provides that a taxpayer, for this purpose, shall not be considered to be a head of a household by reason of an individual who would not be a dependent but for paragraph 9 or paragraph 10. See Section 1(b)(4) of the 1954 Code.

fore this Court.<sup>7</sup> Nevertheless, a very recent Tax Court decision, relying principally upon the instant case and decided by the same judge that rendered decision here, has held that a dependent child awaiting adoption by a taxpayer who became a member of the taxpayer's household on February 11, 1955, and was not legally adopted until 1956, could not be taken as an exemption by the taxpayer in taxable year 1955 because the dependent child was not a member of the taxpayer's household for the entire taxable year of the taxpayer. *McMillan v. Commissioner*, 31 T. C. No. 116.<sup>8</sup>

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<sup>7</sup> *Bombarger v. Commissioner*, 31 T. C. No. 48; *Dewsbury v. United States*, 146 F. Supp. 467 (C. Cls.); *Turnipseed v. Commissioner*, 27 T. C. 758. The *Turnipseed* case is directly opposite to taxpayer's statement that "moral aspects" have no bearing as to whether Section 152(a)(9) is applicable. (Br. 5.) Although this matter was never questioned in the brief below nor commented on by the Tax Court and consequently is most likely not applicable to the case at bar, the *Turnipseed* case, Section 1.152-1(b) of the 1954 Regulations, and Congress in Section 152(b)(5) show that Section 152(a)(9) is not applicable if the claimed dependent's living in the taxpayer's abode has the effect of contravening the public policy of the local jurisdiction.

<sup>8</sup> It must be noted that the primary purpose of introducing Section 152(a)(9) into the 1954 Code was to allow exemptions for foster children or children awaiting adoption if the dependent child was a member of the taxpayer's household for the taxpayer's taxable year. H. Rep. No. 1337, 83d Cong., 2d Sess., p. 18-19 (3 U.S.C. Cong. & Adm. News (1954) 4017, 4044); S. Rep. No. 1622, 83d Cong., 2d Sess., p. 21 (3 U.S.C. Cong. & Adm. News (1954) 4621, 4651).

## CONCLUSION

For the aforementioned reasons stated herein, the decision of the Tax Court is correct and should be affirmed.

Respectfully submitted,

CHARLES K. RICE,  
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LEE A. JACKSON,  
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*Attorneys,  
Department of Justice,  
Washington 25, D. C.*

April, 1959.

**APPENDIX****DOCKET NO. 64547****APPEARANCES**

ROBERT WOODROW TROWBRIDGE, PETITIONER

For Petitioner:

*vs.*

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

For Respondent:

**DOCKET ENTRIES****1956**

- Oct 8—Petition received and filed. Taxpayer notified. Fee paid.  
Oct 8—Copy of petition served on General Counsel.  
Oct 29—Request for Circuit hearing in San Francisco, Calif., filed by petitioner. 10/29/56  
Granted. Served 10/29/56.  
Nov 20—Answer filed by Resp. Served 11/23/56.

**1957**

- Oct 22—Notice of trial, January 20, 1958, at San Francisco, Calif.

**1958**

- Jan 20—Trial had before Judge Tietjens on merits.  
Briefs due March 6, 1958; no replies.  
Feb 20—Transcript of proceedings, January 20, 1958, filed.  
Mar 3—Brief for Petr. filed.)  
Mar 6—Brief for Resp. filed.) Served 3/7/58.  
July 8—Findings of fact and opinion, filed. Judge Tietjens. Decision will be for Resp.  
July 9—Decision entered, Judge Tietjens.

1958

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- Oct 7—Petition for review by U.S.C.A. 9th Cir., filed by Petr.
- Oct 7—Proof of service of petition for review, filed.
- Oct 23—Designation of contents of record on review, with proof of service thereon, filed by Petr.
- Oct 24—Designation of additional portions of record on review, with proof of service thereon, filed by Resp.
- Nov 5—Order extending time for filing record on review and docketing petition for review to January 5, 1959. Served 11/7/58.

## TAX COURT OF THE UNITED STATES

ROBERT WOODROW TROWBRIDGE, PETITIONER,

*v.*

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.

Docket No. 64547.

Filed July 8, 1958.

Dependents—Sec. 152 (a) (9), I. R. C. 1954.  
—*Held:* Claimed dependents who became members of taxpayer's household in March of 1954 and lived there the remainder of the year did not have their principal place of abode and were not members of the household "for the taxable year of the taxpayer". Dependency exemptions properly denied.

*Robert Woodrow Trowbridge, pro se.*

*Edward H. Boyle, Esq., for the respondent.*

TIETJENS, Judge: The Commissioner determined a deficiency in income tax for the year 1954 in the amount of \$377.

The only question for decision is whether petitioner could properly claim dependency exemptions for a woman and her two minor sons who lived in petitioner's home from March 5, 1954 through the remainder of the year.

## FINDINGS OF FACT.

Petitioner is an individual residing in Laton, California. He filed his individual income tax return for 1954 with the district director of internal revenue in San Francisco, California.

On his 1954 return petitioner claimed exemptions for himself and for three other persons consisting of a woman and her two minor sons. They were not related to petitioner by blood or marriage. These persons came to live in petitioner's home about March 5, 1954 and continued to reside there during the remainder of the year.

The Commissioner disallowed the exemptions claimed for the three dependents because they were not related to petitioner by blood or marriage and did not have petitioner's home as their principal place of abode during the entire year 1954.

#### OPINION.

The only question raised in this case is whether the claimed dependents fall within the definition of a dependent contained in section 152 (a) (9), Internal Revenue Code of 1954. That section defines a dependent to be

An individual who, for the taxable year of the taxpayer, has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, or

The issue is narrowed to the meaning of the phrase "for the taxable year of the taxpayer". Concededly the claimed dependents did not live in petitioner's home during the entire year 1954. They did not live at petitioner's home nor become members of his household until March of that year. The Commissioner's Regulations, 1954 Code, section 1.152-1 (b), state, in part

Section 152 (a) (9) applies to any individual \* \* \* who lives with the taxpayer and is a member of the taxpayer's household during the *entire taxable year* of the taxpayer. \* \* \* The

taxpayer and dependent will be considered as occupying the house hold for such entire taxable year notwithstanding temporary absences from the household due to special circumstances. \* \* \*

[Emphasis supplied]

If the Regulations correctly interpret the Code, the Commissioner's action must be approved. We think the Regulations are correct.

To sustain petitioner's view we would have to construe the words "for the taxable year" as meaning "for a part of", or "during some part of", or "at any time during", the taxable year. But in its ordinary sense the word "for" as defined in Webster's New International Dictionary, Second Edition, means "Expressly duration of time or extension of space; during, throughout; in or through the space of time of; to the extent of." Most of these definitions, if applied here, indicate to us that the individuals claimed as dependents must have been members of petitioner's household throughout the taxable year in order to meet the statutory requirement for a dependent. They were not.

The interpretation placed on section 152 (a) (9) in the Regulations also finds support in the Report of the Ways and Means Committee of the House and the Report of the Finance Committee of the Senate where it is stated:

Paragraph 9 is intended to apply only when the taxpayer and such other members of his household live together in such household during the entire taxable year (except for temporary absences due to special circumstances).

H. Rept. No. 1337, 83d Cong., 2d Sess., (1954) p. A41; S. Rept. No. 1635, 83d Cong., 2d Sess., (1954) p. 193.

Petitioner has not shown error in the Commissioner's determination.

*Decision will not be entered for  
the respondent.*

[Caption omitted]

#### DECISION

Pursuant to the determination of the Court, as set forth in its Findings of Fact and Opinion, filed July 8, 1958, it is

ORDERED AND DECIDED: That there is a deficiency in income tax for the year 1954 in the amount of \$377.

Enter:

Entered Jul 9 - 1958

/s/ NORMAN O. TIETJENS  
Judge.

